

Message Text

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ACTION NEA-16

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FM AMEMBASSY DACCA

TO SECSTATE WASHDC 3219

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E.O. 11652: N/A

TAGS: EIND, BG

SUBJ: NATIONALIZATION OF INSURANCE: FURTHER COMPENSATION CLAIM
PRESENTED

REF: DACCA 5558, 12/27/73

SUMMARY-AMERICAN INTERNATIONAL UNDERWRITERS HAS SUBMITTED SMALL CLAIM FOR COMPENSATION FOR NATIONALIZED GENERAL-INSURANCE OPERATION HERE. THIS FOLLOWS ON JOINT CLAIM LAST DECEMBER 6 AMERICAN FOREIGN INSURANCE ASSOCIATION AND VARIOUS UK, OTHER FOREIGN FIRMS, AND COMPLETES RANGE OF CLAIMS FOR NATIONALIZATION IN INSURANCE SECTOR. WITH ALL FACTS AND VARIATIONS BEFORE IT, BDG HAS BEEN PRESSED BY EMBASSY TO ADJUDICATE CLAIMS EXPEDITIOUSLY AND PROVIDE PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION. WE ARE NOT HOWEVER SANGUINE OF EARLY ACTION.

1. AMERICAN INTERNATIONAL UNDERWRITERS HAS PREPARED A CLAIM FOR COMPENSATION FOR NATIONALIZATION OF ITS TWO SMALL GENERAL INSURANCE OPERATIONS IN BANGLADESH, NEW HAMPSHIRE INSURANCE AND HANOVER INSURANCE. CLAIM DATED APRIL 23, 1974, WAS FORWARDED TO EMBASSY FOR SUBMISSION, AND AFTER DELAY IN TRANSIT, WAS FORMALLY PRESENTED TO ENAM AHMED CHOWDHURY, JOINT SECRETARY, MINISTRY OF TRADE AND COMMERCE. MAY 29.

2. AS WITH JOINT CLAIM MADE BY GROUP OF FOREIGN GENERAL INSURANCE FIRMS, INCLUDING AMERICAN FOREIGN INSURANCE ASSOCIATION (REFTEL),
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CLAIM WAS FOR LOSS OF MANAGEMENT RIGHTS FOR PERIOD BETWEEN IMPLEM-

ENATATION OF BANGLADESH INSURANCE (EMERGENCY PROVISIONS) ORDER
AND OF NATIONALIZATION ORDER, I.E., MARCH 26-AUGUST 8, 1972; AND

THEREAFTER FOR LOSS OF BUSINESS PERMANENTLY. THE AMOUNTS RESPEC-
TIVELY ARE TKS. 3,152 AND TKS. 1,001,777 OR ROUGHLY AROUND \$125,000.

3. CLAIM FOR LOSS OF MANAGEMENT RIGHTS CALCULATED ON BASIS OF
2.5 PER MILLE OF 1970 PREMIUM INCOME (NET OF RE-INSURANCE) IN
TERRITORY NOW COMPRISING BANGLADESH FOR PERIOD IN QUESTION. THIS
IS SAME FORMULA AS UTILIZED BY AFIA GROUP. FOR LOSS OF BUSINESS,
AIU CLAIM IS FOR AVERAGE AFTER-TAX PROFIT FOR BASE PERIOD MULTIPLIED
BY NUMBER OF YEARS. THIS ALSO THE FORMULA USED BY AFIA GROUP BUT
IMPORTANT DIFFERENCES OBTAIN. AIU IS SEEKING COMPENSATION FOR
PROFIT FOREIGN FROM BOTH UNDERWRITING AND INVESTMENT; AFIA GROUP
ONLY FOR UNDERWRITING. AIU BASE PERIOD IS 3 YEARS, CY 1968-70, THE
FIRST TWO BEING POOR YEARS AND THE LAST A VERY GOOD YEAR; AFIA
GROUP BASE PERIOD WAS CY 1970 ONLY. FINALLY AIU IS CLAIMING
COMPENSATION FOR 25 YEARS OF PROFIT; AFIA GROUP 15 YEARS. AIU

STATES ITS FORMULA CONSISTENT WITH SIMILAR CLAIMS IT HAS SUBMITTED
IN OTHER EXPROPRIATION CASES.

4. CHOWDHURY ACCEPTED AIU LETTER FROM EMBOFF AND SAID CLAIM WILL
NOW BE "PROCESSED". CHOWDHURY HAD BEEN AMONG GROUP BDG OFFICIALS
WHICH RECEIVED AFIA JOINT CLAIM AND MADE TO EMBOFF RE AIU CLAIM
REMARKS SIMILAR TO THOSE REPORTED REFTTEL, ABOUT DIFFICULTIES
GOVERNMENT FACES IN EVALUATING AND PAYING OFF CLAIMS FOR COMPEN-
SATION. SPECIFICALLY HE CITED FREQUENT ROTATION OF KEY PERSONNEL
AND ACUTE SHORTAGE OF FOREIGN EXCHANGE. ON OTHER HAND HE STATZ
CURRENT COMMERCE MINISTER KHONDAKER MUSTAQUE AHMED APPEARS
INTERESTED IN RESOLVING OUTSTANDING CLAIMS FROM FOREIGN PARTIES,
AND FOLLOWING AMBASSADOR'S REFERENCE TO THIS ISSUE IN GENERAL
WHEN HE CALLED ON MINISTER MAY 23 (MEMCON SUBMITTED), AHMED HAD
QUERIED CHOWDHURY ABOUT DETAILS. CHOWDHURY SAID HE WOULD BRING
AIU CLAIM NOW TO ATTENTION OF MINISTER. HE MENTIONED THAT WITH AIU
SUBMISSION, ALL CLAIMS FOR COMPENSATION FOR GENERAL INSURANCE WERE
NOW IN AND GOVERNMENT WOULD GIVE MATTER APPROPRIATE ATTENTION.

5. AS UK HIGH COMMISSION OFFICIALS HAD DONE ON AFIA JOINT CLAIM,
EMBOFF EMPHASIZED REQUIREMENT UNDER INTERNATIONAL LAW FOR PROMPT,
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ADEQUATE AND EFFECTIVE COMPENSATION FOR NATIONALIZED FOREIGN
ASSETS. REFERRED ALSO TO FAILURE OF BDG TO DATE TO FINALIZE
SPECIFIC COMPENSATION POLICY FOR NATIONALIZED FOREIGN INDUSTRY AND
EFFECT THIS INEVITABLY HAD ON GENERAL IMAGE OF BANGLADESH AS AREA
FOR FEASIBLE FOREIGN INVESTMENT. EMBOFF EXPRESSED HOPE MINISTRY
OF COMMERCE WOULD MOVE EXPEDITIOUSLY ON CURRENT CLAIMS NOW THAT
ALL ON GENERAL INSURANCE HAD BEEN FORMALLY SUBMITTED. ACKNOWLEDGING
THAT DETAILS OF TWO SETS OF CLAIMS WOULD BE FOUND TO DIFFER, EMBOFF

POINTED TO EMPLOYMENT BY AIU OF AN EXTENSIVE BASE PERIOD, INCLUDING BAD YEARS AS WELL AS GOOD, FOR CALCULATION OF PROFIT FOREGONE. NOW IT WAS UP TO BDG TO FOCUS ON RANGE OF DIFFERENT ASPECTS OF CLAIMS, COME TO APPROPRIATE DECISIONS, AND PROVIDE OFFICIAL RESPONSE.

6. COMMENT: CHOWDHURY HIMSELF MAY BE TRANSFERRED SOON, AND EMBASSY NOT SANGUINE THAT PROCESSING OF GENERAL INSURANCE COMPENSATION CLAIMS WILL BE EXPEDITIOUS. WE SHALL HOWEVER PURSUE MATTER, ON VARYING LEVELS, AS WE HAVE IN PAST WITH RESPECT TO COMPENSATION FOR NATIONALIZED FOREIGN INDUSTRIES. WILL REPORT PERIODICALLY.

7. EMBASSY IS OF BELIEF THAT ACTUAL SUBMISSION OF ANY CLAIM FOR COMPENSATION SHOULD BE MADE BY US COMPANY CONCERNED OR DULY APPOINTED LAWYER. SUGGEST THAT WHEN BDG RESPONDS TO PRESENT LETTER, AIU APPOINT SUCH HERE. SEE LIST OF LAW FIRMS IN INDEX "SERVICE ORGANIZATIONS FOR FOREIGN BUSINESSMEN IN BANGLADESH", SENT NEA/PAB. ORR, DIGNAM AND CO. AND FIRM CALLED LAW CONSULTANTS HANDLING NUMBER OF FOREIGN COMPENSATION CLAIMS. RAFIQUDDIN HUQ, HUQ AND CO., 47/1 PURANA PALTAN, DACCA, REPRESENTS INTERESTS OF BELTON BAGGING CO. IN CLAIM FOR COMPENSAION FOR NATIONALIZED JUTE MILL. NO LAWYER YET APPOINTED BY AFIA JOINT GROUP, ACCORDING TO UK HICOM HERE. BECAUSE OF DELAY SUFFERED FOR REASONS BEYOND OUR CONTROL ON SUBMISSION AIU CLAIM, EMBASSY WILLING IN THIS CASE TO PRESENT IT TO BDG.

8. NEA/IRN REQUESTED TO REPORT FOREGOING TO E. A. G. MANTON, CHAIRMAN, 457 NEW YORK.
BOSTER

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